

570

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name DUMLAO JOHN K.
(Last) (First) (Initial)

Prisoner Number C-16555

Institutional Address KERN VALLEY STATE PRISON (KVSP)
P.O. BOX 5101/A4-215
DELANO, CA 93216-5101

FILED
JUN 17 2008
RICHARD W. WIEHING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JOHN KEVIN DUMLAO
(Enter the full name of plaintiff in this action.)

vs.

HEDGPETH, WARDEN KVSP

(Enter the full name of respondent(s) or jailor in this action)

CV 08 2988

Case No. _____
(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS**

SI

(PR)

E-filing

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

IS
28280

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

COUNTY SUPERIOR COURT, ALAMEDA 1225 FALLON ST, OAKLAND

Court

Location

(b) Case number, if known ALAMEDA 71832

(c) Date and terms of sentence 09/81; SEVEN YEARS TO LIFE

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes X No

Where?

Name of Institution: KERN VALLEY STATE PRISON

Address: P.O. BOX 5101, DELANO, CA 93216-5101

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

KIDNAP FOR ROBBERY 209(b); ROBBERY 211 WITH USE OF FIREARM

3. Did you have any of the following?

Arrestment: Yes x No

Preliminary Hearing: Yes X No

Motion to Suppress: Yes X No

4. How did you plead?

Guilty _____ Not Guilty X Nolo Contendere _____

Any other plea (specify) _____

5. If you went to trial, what kind of trial did you have?

Jury X Judge alone _____ Judge alone on a transcript _____

6. Did you testify at your trial? Yes X No _____

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes X No _____

(b) Preliminary hearing Yes X No

(c) Time of plea Yes X No

(d) Trial Yes X No

(e) Sentencing Yes X No

(f) Appeal Yes X No _____

(g) Other post-conviction proceeding Yes X No

8. Did you appeal your conviction? Yes X No

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes X No

Year: 1981 Result: DENIED

Supreme Court of California Yes _____ No X

Year: _____ Result: _____

Any other court Yes _____ No X

Year: _____ Result: _____

(b) If you appealed, were the grounds the same as those that you are raising in this

petition? Yes _____ No X

(c) Was there an opinion? Yes _____ No X

(d) Did you seek permission to file a late appeal under Rule 31(a)?
Yes _____ No X

If you did, give the name of the court and the result:

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes _____ No X

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: EL CENTRO SUPERIOR, ALAMEDA

Type of Proceeding: HABEAS CORPUS

Grounds raised (Be brief but specific):

a. FRADULENT PROBATION REPORT USED BY BOARD OF PRISON

b. DUE PROCESS VIOLATION OF 14TH AND 15TH AMENDMENTS

c. BOARD OF PRISON TERMS (BPT) FAILED TO FOLLOW

~~xxx~~ ++ MATRIX GUIDELINES FOR PAROLE HEARINGS *continued on back Page 5 Exhibit C*

Result: DENIED Date of Result: 2005

II. Name of Court: SAN DEIGO APPEALS COURT

Type of Proceeding: HABEAS CORPUS

Grounds raised (Be brief but specific):

a. _____
b. _____
c. _____
d. _____

Result: DENIED Date of Result: 08/30/2006

III. Name of Court: SUPREME COURT

Type of Proceeding: HABEAS CORPUS

Grounds raised (Be brief but specific):

a. DENIAL BY BPT BASED ON FRAUDELENT PROBATION REPORT

b. 5TH & 14TH VIOLATION OF DUE PROCESS AMENDMENT

c. _____

d. _____

Result: DENIED Date of Result: 01/23/08

IV. Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

a. _____

b. _____

c. _____

d. _____

Result: _____ Date of Result: _____

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes _____ No X

Name and location of court: U.S. District Court Northern District

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: THE BPT HEARING DENIED ME PROCEDURAL AND SUBSTANTIVE
6 DUE PROCESS UNDER THE 5TH AND 14TH AMENDMENTS (DUE PROCESS).

7 Supporting Facts: JUVENILE REPORT INVOLVED MOSTLY PROPERTY CRIMES
8 WITH NO VIOLENCE INVOLVED OR INJURY. THIS MITIGATING FACTOR
9 WAS NOT CONSIDERED BY THE BPT, THEREBY FAILING TO ADHERE TO
10 THEIR OWN MATRIX GUIDELINES. (CONTINUED)

11 Claim Two: _____

12 _____
13 Supporting Facts: _____

14 _____
15 _____
16 _____
17 Claim Three: _____

18 _____
19 Supporting Facts: _____

20 _____
21 _____
22 _____
23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

(CONTINUATION OF CLAIM ONE, PAGE 6)

Probation Officer Locke of Oakland, California, made out a probation report stating that I committed a murder and an attempted murder and beat it on a technicality. There was no murder or attempted murder even committed. This probation report has been used numerous times at my BPT hearings and I've been questioned every time and told the BPT it was false and the BPT members would use this fraudulent information on the probation report as a "silent beef" to deny me parole. Counselors at Calipatria State Prison stated that they checked this information out and was going to remove it out of my file, but this never happened. My hearing in 2005 also used this fraudulent information in the probation report again and questioned me again about the murder and attempted murder. I explained again that it was false, but was again denied parole.

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 _____
5 _____
6 _____

7 Do you have an attorney for this petition? Yes _____ No X

8 If you do, give the name and address of your attorney:

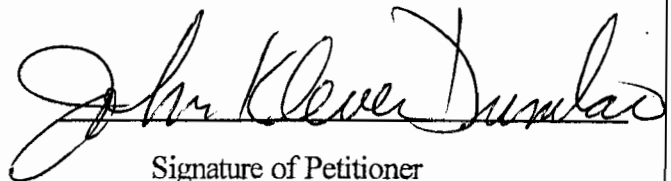
9 _____

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on

4-10-08

14 Date


Signature of Petitioner

15
16
17
18
19
20 (Rev. 6/02)

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**INSTRUCTIONS FOR PRISONER'S
IN FORMA PAUPERIS APPLICATION**

You must submit to the court a completed Prisoner's In Forma Pauperis Application if you are unable to pay the entire filing fee at the time you file your complaint or petition. Your application must include copies of the prisoner trust account statement showing transactions for the last six months and a certificate of funds in prisoner's account, signed by an authorized officer of the institution.

A. Non-habeas Civil Actions

The filing fee for any civil action other than a habeas is \$350.00. Even if you are granted leave to proceed in forma pauperis, you must still pay the full amount of the court's filing fee, but the fee will be paid in several installments. 28 U.S.C. § 1915.

You must pay an initial partial filing fee of 20 percent of the greater of (a) the average monthly deposits to your account for the 6-month period immediately before the complaint was filed or (b) the average monthly balance in your account for the 6-month period immediately before the complaint was filed. The court will use the information provided on the certificate of funds and the trust account statement to determine the filing fee immediately due and will send instructions to you and the prison trust account office for payment if in forma pauperis status is granted.

After the initial partial filing fee is paid, your prison's trust account office will forward to the court each month 20 percent of the most recent month's income to your prison trust account, to the extent the account balance exceeds ten dollars (\$10.00). Monthly payments will be required until the full filing fee is paid. If you have no funds over ten dollars (\$10.00) in your account, you will not be required to pay part of the filing fee that month.

If your application to proceed in forma pauperis is granted, you will be liable for the full \$350.00 filing fee even if your civil action is dismissed. That means the court will continue to collect payments until the entire filing fee is paid. However, if you do not submit this completed application the action will be dismissed without prejudice and the filing fee will not be collected.

B. Habeas Actions

The filing fee for a habeas action is \$5.00. If you are granted leave to proceed in forma pauperis you will not be required to pay any portion of this fee. If you are not granted leave to proceed in forma pauperis you must pay the fee in one payment and not in installments. **If you use a habeas form to file a non-habeas civil action, you will be required to pay the \$350.00 filing fee applicable to all non-habeas civil actions.**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN KEVEN DURLAO

Plaintiff,

vs.

A. HEDGPETH, WARDEN, KVSP

Defendant.

CASE NO. _____

**PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

I, JOHN KEVEN DURLAO, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes X No _____

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: 13¢ PER HOUR Net: \$15.00 PER MONTH

Employer: KERN VALLEY STATE PRISON, DELANO, CA 93216

If the answer is "no," state the date of last employment and the amount of the gross and net salary

PRIS. APPLIC. TO PROC. IN FORMA

PAUPERIS, Case No. _____

1 and wages per month which you received. (If you are imprisoned, specify the last place of
2 employment prior to imprisonment.)

3 KELLOGS CORN FALKES, 77TH AVENUE, OAKLAND, CA
4 _____
5 _____

6 2. Have you received, within the past twelve (12) months, any money from any of the following
7 sources:

8 a. Business, Profession or Yes ____ No X
9 self employment

10 b. Income from stocks, bonds, Yes ____ No X
11 or royalties?

12 c. Rent payments? Yes ____ No X

13 d. Pensions, annuities, or Yes ____ No X
14 life insurance payments?

15 e. Federal or State welfare payments, Yes ____ No X
16 Social Security or other govern-
17 ment source?

18 If the answer is "yes" to any of the above, describe each source of money and state the amount
19 received from each.

20 _____
21 _____

22 3. Are you married? Yes ____ No X

23 Spouse's Full Name: _____

24 Spouse's Place of Employment: _____

25 Spouse's Monthly Salary, Wages or Income:

26 Gross \$ _____ Net \$ _____

27 4. a. List amount you contribute to your spouse's support : \$ _____

28 b. List the persons other than your spouse who are dependent upon you for support

PRIS. APPLIC. TO PROC. IN FORMA

and indicate how much you contribute toward their support. (NOTE: For minor children, list only their initials and ages. DO NOT INCLUDE THEIR NAMES.)

5. Do you own or are you buying a home? Yes ___ No X

Estimated Market Value: \$ _____ Amount of Mortgage: \$ _____

6. Do you own an automobile? Yes ___ No X

Make _____ Year _____ Model _____

Is it financed? Yes ___ No ___ If so, Total due: \$ _____

Monthly Payment: \$ _____

7. Do you have a bank account? Yes ___ No X (Do not include account numbers.)

Name(s) and address(es) of bank: _____

Present balance(s): \$ _____

Do you own any cash? Yes ___ No X Amount: \$ _____

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes ___ No X

8. What are your monthly expenses?

Rent: \$ _____ Utilities: _____

Food: \$ _____ Clothing: _____

Charge Accounts:

<u>Name of Account</u>	<u>Monthly Payment</u>	<u>Total Owed on This Acct.</u>
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

9. Do you have any other debts? (List current obligations, indicating amounts and to whom they are payable. Do not include account numbers.)

PRIS. APPLIC. TO PROC. IN FORMA

10. Does the complaint which you are seeking to file raise claims that have been presented in other lawsuits? Yes ___ No X

Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in which they were filed.

I consent to prison officials withdrawing from my trust account and paying to the court the initial partial filing fee and all installment payments required by the court.

I declare under the penalty of perjury that the foregoing is true and correct and understand that a false statement herein may result in the dismissal of my claims.

4-10-08

DATE

John K. Quier Dumbao

SIGNATURE OF APPLICANT

Probation officer Locke OAKLAND Probation officer MADE OUT A Probation Report stating that I COMMITTED A MURDER AND AN ATTEMPTED MURDER AND Beat IT ON A Tech. there was "NO" MURDER OR ATTEMPTED MURDER even committed. This Probation Report has been used numerous times at my BPT hearings and I've been questioned every time and told the BPT. it was False and the BPT members would use this Fraudulent info on the Probation Report as a silent Beef to Deny me Parole. Counselors at Col. Patrick stated that they checked this info out and was gonna remove it out of my file and put a chrono in my file stating that the info is False, but never did this. My Hearing in 2005 also used this Fraudulent info in the Probation Report again and questioned me again about the MURDER and attempted murder that the P.D. said I beat on a tech. I explained again that it was false the info is Fraudulent info, this info is Fraudulent and is being used against me as a what is called a Silent Beef, what it really is, is Fraudulent info. I NEVER made out a Prob Report, and this info in the Prob Report is Fraudulent, and I should be taken back to the BPT and given a Parole Date. I've never been charged or convicted of a violent crime, this Kidnap Robb, and Robb is considered a violent crime but there was NO physical violence involved. I've never been convicted of violence.

John L. Dumas C16558

EXHIBIT A

1 COMMISSIONER BENTLEY: No, I don't have any.

2 PRESIDING COMMISSIONER GIAQUINTO: Mr. Stanton.

3 ATTORNEY STANTON: I have no questions.

4 PRESIDING COMMISSIONER GIAQUINTO: All right.

5 Closing.

6 ATTORNEY STANTON: Well, what I would like to
7 kind of focus on is Mr. Dumlao is changed -- I think
8 it has been occurring over, especially, the last
9 decade. Regarding the commitment offense, I don't
10 think it clearly (inaudible) planned this to be a
11 kidnaping. He was high at the time he was suffering
12 from drug addiction. I think he has overcome that
13 adamantly. He didn't physically abuse the victim
14 here. I think the motivation, basically, was to try
15 to (inaudible). Not that that is a valid reason that
16 everybody who has taken drugs does commit a crime, but
17 it is definitely a factor that should be considered.
18 As he has expressed here, and all along, he is very
19 sorry that he did this not only because he came to
20 prison, but he is sorry for the victim. He
21 acknowledges it was the wrong thing to do. He does
22 take responsibility. He doesn't offer too many
23 excuses. His juvenile record is fairly (inaudible)
24 acts of ^{NOT true} violence. The adult convictions, murder, were
25 considered acts of violence. But they weren't for
26 assaulting, physically assaulting (inaudible), but not
27 for actually hitting or striking or anything like

*the fraudulent
Probation
Report*

(No)

Parole Board Hearing transcript

EXHIBIT B

John Dimla
 CIL555 OAKLAND

Arrest Record

CRIMINAL HISTORY

<u>Offense Date</u>	<u>Offense</u>	<u>Disposition</u>
4/14/64 Fremont	G.T.	Convicted 488 PC-PT, un-spec. prob.
3/4/66 Oakland	459 PC (Burglary).	6/10/66, convicted, 3 yr. probation, 106 days jail susp., \$56.00 fine.
4/8/67 Arizona	Theft of Interstate Shipment. <i>Federal Prison in Safford ARIZONA</i>	Nine months.
4/1/68 Oakland	495 PC (malicious mischief).	Convicted, ten days.
5/20/68 El Cerrito	P.T.	12/17/68, PC conv. PG, \$125 fine.
11/26/68 Alameda	Warrant charge unspec. 148 PC, obstructing, resisting public off.	11/26/78, PC convicted by jury, judgment suspended 1 year, 60 days jail.
11/27/68 Oakland	11915 H&S (possession of dangerous drugs, injection kit).	Convicted, 180 days County Jail.
7/31/69 Oakland	4532a PC (escape/charged etc. w/misd.)	7/31/70, discharged 6 mon. to one year and one dismissed.
2/27/71 San Francisco	488 PC (Petty theft).	3/22/71, convicted, \$35 fine or 5 days.
11/22/71 Oakland	488 PC (petty theft).	2/18/72, PC conv. PG 484 PC-PT, 90 days County Jail, concurrent.
3/2/72 Corrections	459 PC (Burglary, 2nd degree).	6 months to 15 years, 7/9/75, paroled.
11/20/75 Alameda	12021a PC (felon addict possess firearm).	Sentenced.
2 11/26/79 Alameda	459 PC/F, 2nd degree.	16 months State Prison.

The defendant states that he has been in prison in State Prison on three separate occasions. In the above Criminal History, only two are represented.

JOHN DUMLAO

11/26/79 ALAMEDA

459 PC/F 2ND
DEGREE

16 MOS ST PRIS.
PAROLED 11/7/80

1/19/81 PD
ALAMEDA

211 PC
2 CTS

7/27/81: JURY TRIAL
GUILTY 2 CTS 211
PC W/USE: 1 CT
209 PC/4 PRIOR
FEL CONV. 13 YRS
TO LIFE

S155236

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re JOHN KLEVER DUMLAO on Habeas Corpus

The petition for writ of habeas corpus is denied. (See *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474.)

SUPREME COURT
FILED

JAN 23 2008

Frederick K. Ohlrich Clerk

Deputy

GEORGE

Chief Justice

Name John Kleven Dumlao
 Address P.O. Box 5101 A-4-215
Delano, Calif 93216

SUPREME COURT
FILED

AUG 09 2007

Frederick K. Ohlrich Clerk

CDC or ID Number C16555

Calif State Supreme Court

Deputy

(Court)

<u>John Kleven Dumlao</u>
Petitioner
vs.
<u>HedGERTH, WARDEN</u>
Respondent

PETITION FOR WRIT OF HABEAS CORPUS

S155236

No.

(To be supplied by the Clerk of the Court)

RECEIVED

JUL 28 2007

INSTRUCTIONS — READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies.
- If you are filing this petition in the California Supreme Court, file the original and thirteen copies.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rules 56.5 and 201(h)(1) of the California Rules of Court [as amended effective January 1, 1999]. Subsequent amendments to Rule 44(b) may change the number of copies to be furnished the Supreme Court and Court of Appeal.

Page one of six

This petition concerns:

- ☐ A conviction
 ☒ Parole
☐ A sentence
 ☐ Credits
☐ Jail or prison conditions
 ☐ Prison discipline
☐ Other (specify): _____

1. Your name: John Klever Dumlaos
 2. Where are you incarcerated? Centivela State Prison
 3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

KIDNAP for Robbery. use of A firearm, Robbery, use of a Firearm

- b. Penal or other code sections: 209 B; 211

- c. Name and location of sentencing or committing court: Alameda County Superior Court
OAKLAND, Calif

- d. Case number: ALA 71832

- e. Date convicted or committed: Sept 23, 1981

- f. Date sentenced: Sept 1981

- g. Length of sentence: Life

- h. When do you expect to be released? UNKNOWN

- i. Were you represented by counsel in the trial court? ☒ Yes ☐ No. If yes, state the attorney's name and address:

BOB BRAVERMAN, ADDRESS UNKNOWN AT this time

4. What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: _____

5. If you pleaded not guilty, what kind of trial did you have?

☒ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

the BOARD of Prison teams hearing Denied me procedural and substantive due process under the Fifth and Fourteenth amendments; AND I WAS Denied equal protection under the Fourteenth Amendment.

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

1.) Juvenile Record - Petitioner's record as a juvenile involved mostly property crimes. There was not any violence involved and nobody was ever injured in any of the crimes involving Petitioner as a juvenile. Petitioner believes this is a mitigating factor that was not considered by the B.P.T. in evaluating Petitioner's suitability for Parole. The B.P.T. hearing arbitrarily denied the consideration of this information. The B.P.T. actions failed to follow and adhere to their own matrix guidelines that establish the criteria that the B.P.T. shall use when determining an inmate's suitability for Parole.

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

United States Constitution - Fifth Amendment
United States Constitution Fourteenth Amendment.

7. Ground 2 or Ground _____ (if applicable):

The Board of Prison terms hearing denied me procedural and substantive due Process under the Fifth and Fourteenth Amendments; and I was Denied equal protection under the Fourteenth Amendment.

a. Supporting facts:

2.) ADULT Record - Petitioner's crimes as an ADULT were non-violent except for the current commitment. The current commitment did involve the use of A handgun but none of the victims were injured during the commission of the crimes. The fact that no victims were injured is an important mitigating factor that should weigh in Petitioner's favor in considering Parole. The B.P.T. hearing arbitrarily denied the consideration of this information. The B.P.T. actions failed to follow and adhere to their matrix guidelines that established the criteria that the B.P.T. shall use when determining an inmate(s) suitability for Parole.

No Probation report was made out by inmate Dumbao but the Probation Dept sent a Probation report to C.D.C. which has false and fraudulent information in it which was used at the B.P.T. hearing to make a decision. The counselors at Calipatria State Prison were suppose to remove this Probation report which has false and fraudulent information in it and was used at the B.P.T. hearing in deciding Parole consideration.

b. Supporting cases, rules, or other authority:

United States Constitution - Fifth Amendment
United States Constitution - Fourteenth Amendment

8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☐ No. If your answer is yes, give the following information about your appeal:

Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court")

N/A

Result _____ Date of decision _____

Case number or citation of opinion, if known _____

Issues raised: a. _____

b. _____

c. _____

d. _____

Were you represented by counsel on appeal? ☐ Yes. ☐ No. If yes, state the attorney's name and address, if known.

9. Did you seek review in the California Supreme Court? ☐ Yes. ☐ No. Result N/A

Date of decision _____ Case number or citation of opinion, if known _____

Issues raised: a. _____

b. _____

c. _____

d. _____

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

N/A

11. Administrative Review:

- a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In Re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].)

Explain what administrative review you sought or explain why you did not seek such review:

N/A

- b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you previously filed any petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☒ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15.

13. (1) Name of court Board Of Prison Terms Appeal

Nature of proceeding (for example, "habeas corpus petition") B.P.T. hearing appeal

Issues raised: a. Same as 1 through 6 herein

b. _____

c. _____

Result (Attach order, if available) DENIED Date of decision 12-07-98

(2) Name of court _____

Nature of proceeding _____

Issues raised: a. _____

b. _____

c. _____

Result (Attach order, if available) _____ Date of decision _____

For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result.

N/A

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

N/A

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known.

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain.

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court.

N/A

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: 10-13-05

John K. Lumsden
(Signature of Petitioner)

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

FILED

APR 19 2007

In re JOHN KLEVER DUMLAO,
on Habeas Corpus.

A117420

Court of Appeal - First App. Dist.
DIANA HERBERT

By
(Alameda County
Super. Ct. No. 71832B)

DEPUTY

BY THE COURT:*

The petition for a writ of habeas corpus is denied.

APR 19 2007

Dated: _____

PARRILLI, J.

Acting P.J.

* Parrilli, Acting P.J., Pollak, J. & Siggins, J.

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA
BOARD OF PAROLE HEARINGS

E-filing

In the matter of the Life)
Term Parole Consideration)
Hearing of:)

JOHN DURLAO)
_____)
_____)

CV 08 2988

CDC Number C-16555

**INMATE
COPY**

SI

(PR)

CENTINELA STATE PRISON

IMPERIAL, CALIFORNIA

JULY 6, 2005

1:14 P.M.

PANEL PRESENT:

Mr. Philip Inglee, Presiding Commissioner
Ms. Alejandro Armenta, Deputy Commissioner

OTHERS PRESENT:

Mr. John Dumlao, Inmate
Ms. Linda Ludwig, Attorney for Inmate
Correctional Officer Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____	No	See Review of Hearing
_____	Yes	Transcript Memorandum

JA Willis, Peters Shorthand Reporting

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--oOo--

1 P R O C E E D I N G S

2 PRESIDING COMMISSIONER INGLEE: Can you
3 give me the pronunciation of your last name
4 please?

5 INMATE DUMLAO: D-U-M-L-A-Y-O (phonetic).

6 PRESIDING COMMISSIONER INGLEE: Dumlayo?

7 INMATE DUMLAO: Yes Sir.

8 PRESIDING COMMISSIONER INGLEE: This is a
9 Subsequent Parole Consideration Hearing for John
10 Dumlao, CDC number C-16555. Today's date is
11 July the 6th, 2005. The time is 1:14 p.m.
12 We're located at Centinela State Prison. The
13 inmate was received on 9/23 of '81, committed
14 from Alameda County. The life term began on 5/5
15 of 1988. The inmate's minimum eligible parole
16 date is 5/5 of '95. The controlling offense in
17 which the inmate has been committed is set forth
18 in Case 71832, charging five Counts of violation
19 of Penal Code Section PC209B, kidnap for
20 robbery. The inmate received a term of life
21 term. This hearing is being tape-recorded, and
22 for the purpose of voice-identification each of
23 us will be required to state our first and last
24 names, spelling our last name. When it comes to
25 the inmate's turn, after you spell your last
26 name, state your CDC number. My name is Philip
27 Inglee, I-N-G-L-E-E, Commissioner.

1 **DEPUTY COMMISSIONER ARMENTA:** And I'm
2 Alejandro Armenta, A-R-M-E-N-T-A, Deputy
3 Commissioner.

4 **ATTORNEY LUDWIG:** Linda A. Ludwig, L-U-D-
5 W-I-G, attorney for Mr. Dumlao.

6 **INMATE DURLAO:** (indiscernible) Dumlao
7 C-16555.

8 **PRESIDING COMMISSIONER INGLEE:** And spell
9 your last name.

10 **INMATE DURLAO:** Oh, D-U-M-L-A-O.

11 **PRESIDING COMMISSIONER INGLEE:** Thank
12 you. We also have one correctional peace
13 officer in the room who is here for security
14 purposes. Mr. Dumlao, before you is an ADA and
15 Self-Rights Identification Statement, which I'll
16 ask you to read out loud if you would please.

17 **INMATE DURLAO:** "The Americans
18 with Disabilities Act, ADA, is a
19 law to help people with
20 disabilities. Disabilities are
21 problems that make it harder for
22 some people to see, hear, breathe,
23 talk, walk, learn, think, work, or
24 take care of themselves than it is
25 for others. Nobody can be kept
26 out of public places or activities
27 because of a disability. If you

1 have a disability, you have the
2 right to ask for help to get ready
3 for your BPT Hearing, get to the
4 hearing, talk, read forms and
5 papers, and understand the hearing
6 process. BPT will look at what
7 you ask for to make sure that you
8 have a disability that is covered
9 by the ADA and that you have asked
10 for the right kind of help. If
11 you do not get help or if you
12 don't think you got the kind of
13 help you need, ask for a BPT 1074
14 Grievance Form. You can also get
15 help to fill it out."

16 **PRESIDING COMMISSIONER INGLEE:** Do you
17 understand what you read?

18 **INMATE DUMLAO:** Yes Sir.

19 **PRESIDING COMMISSIONER INGLEE:** Thank
20 you. Now the record also reflects that you
21 signed a BPT Form 1073, which is a Reasonable
22 Accommodations Notice and Request in accordance
23 with the provisions of the Americans with
24 Disabilities Act of 4/26 of 2005. You indicated
25 at the time that you do not have a disability as
26 defined under ADA; is that true?

27 **INMATE DUMLAO:** Yes, Sir.

1 **PRESIDING COMMISSIONER INGLEE:** Is that
2 information still current and correct?

3 **INMATE DUMLAO:** Yes.

4 **PRESIDING COMMISSIONER INGLEE:** Do you
5 have any problems walking up or down stairs or
6 for a distance of 100 yards or more?

7 **INMATE DUMLAO:** No Sir.

8 **PRESIDING COMMISSIONER INGLEE:** Do you
9 need glasses or magnifying devices in order to
10 see or read documents?

11 **INMATE DUMLAO:** Uh, yes Sir, glasses.

12 **PRESIDING COMMISSIONER INGLEE:** Do you
13 have glasses with you right now?

14 **INMATE DUMLAO:** No Sir.

15 **PRESIDING COMMISSIONER INGLEE:** Are you
16 able to see well enough to be able to participate in this hearing?
17

18 **INMATE DUMLAO:** Yes Sir.

19 **PRESIDING COMMISSIONER INGLEE:** Okay. Do
20 you have any hearing impairments?

21 **INMATE DUMLAO:** No Sir.

22 **PRESIDING COMMISSIONER INGLEE:** Have you
23 ever been included in the CCCMS, Triple CMS, or
24 an EOP Program?

25 **INMATE DUMLAO:** No Sir.

26 **PRESIDING COMMISSIONER INGLEE:** Do you
27 know what these programs are?

1 INMATE DUMLAO: Yes Sir.

2 PRESIDING COMMISSIONER INGLEE: Thank
3 you. Have you ever taken psychotropic
4 medication either in prison or on the streets?

5 INMATE DUMLAO: No, Sir.

6 PRESIDING COMMISSIONER INGLEE: How far
7 did you go in school before you went to prison?

8 INMATE DUMLAO: I graduated from
9 (indiscernible) High School in 1964.

10 PRESIDING COMMISSIONER INGLEE: Okay.
11 Have you taken any special education classes
12 while growing up?

13 INMATE DUMLAO: Special Education
14 classes?

15 PRESIDING COMMISSIONER INGLEE: These are
16 classes generally given to youngsters who have
17 learning disabilities?

18 INMATE DUMLAO: No Sir.

19 PRESIDING COMMISSIONER INGLEE: Okay. Do
20 you suffer from any disability that would
21 prevent you from participating in today's
22 hearing?

23 INMATE DUMLAO: No Sir.

24 PRESIDING COMMISSIONER INGLEE:
25 Counselor, do you have any comments or concern
26 regarding your client's ADA rights?

27 ATTORNEY LUDWIG: No.

1 **PRESIDING COMMISSIONER INGLEE:** This
2 hearing is being conducted pursuant to Penal
3 Code Sections 3041, 3042, and the rules and
4 regulations of the Board of Prison Terms
5 governing parole consideration hearings for life
6 inmates. The purpose of today's hearing is to
7 consider your suitability for parole. In doing
8 so, we will consider the number and nature of
9 the crimes you were committed for, your prior
10 criminal and social history, your behavior and
11 programming since your commitment. We have had
12 an opportunity to review your Central File and
13 your prior hearing transcripts. You'll be given
14 an opportunity to correct and clarify the
15 records. We will consider your progress since
16 your commitment and since your last hearing.
17 Your updated counselor's report and
18 psychological report will also be considered.
19 Any change in parole plans should be brought to
20 our attention. We will reach a Decision today
21 and inform you whether or not we will find you
22 suitable for parole and the reason for our
23 Decision. If you are found suitable for parole,
24 the length and time of your confinement will be
25 explained to you. This hearing will be
26 conducted in two phases. I will discuss with
27 you the crime that you were committed for, your

1 prior criminal and social history, your parole
2 plans, and any letters of support or opposition
3 that may be in the file. Deputy Commissioner
4 Armenta will discuss with you your progress
5 since your commitment, your counselor's report,
6 and your psychological evaluation. Once that is
7 concluded, Commissioners, the District Attorney,
8 and we do not have one present today and your
9 attorney will be given an opportunity to ask you
10 questions. The questions from the District
11 Attorney if they were here would go through the
12 Chair, and your answers will be directed back to
13 the Panel. Before we recess for deliberations,
14 your attorney, and you will be given an
15 opportunity to make a final statements regarding
16 your parole suitability. These statements
17 should be directed as to why you feel you are
18 suitable for parole. We will then recess, clear
19 the room and deliberate. Once we have completed
20 our deliberation we will resume the hearing and
21 announce our Decision. The California Code of
22 Regulations states that regardless of time
23 served a life inmate shall be found unsuitable
24 for and denied parole if in the judgment of the
25 Panel the inmate would pose an unreasonable risk
26 of danger to society if released from prison.
27 You have certain rights. These rights include

1 the right of timely notice of the hearing and
2 the right to review your Central File, and the
3 right to present relevant documents. Counselor,
4 has your inmate's rights been met in this
5 regard?

6 **ATTORNEY LUDWIG:** Yes.

7 **PRESIDING COMMISSIONER INGLEE:** You also
8 have the right to be heard by an impartial
9 Panel. Do you object to any member of this
10 Panel?

11 **INMATE DURLAO:** No Sir.

12 **PRESIDING COMMISSIONER INGLEE:**
13 Counselor, do you object to any member of this
14 Panel?

15 **ATTORNEY LUDWIG:** No.

16 **PRESIDING COMMISSIONER INGLEE:** You will
17 receive a copy of our written decision today.
18 That decision is subject to review by the
19 Decision Review Unit and by an entire Board
20 meeting as a body. It will become effective
21 within 120 days. It is also subject to review
22 by the Governor. A copy of the tentative
23 decision and a copy of the transcript will be
24 sent to you. As of May 1st, 2004, there were
25 major changes limiting your former rights to
26 appeal Board decisions or actions directly to
27 the Board. The old Board regulations were

1 repealed. The current policy is entitled
2 Administrative Appeals Correspondence and
3 Grievances Concerning Board of Prison Terms
4 Decisions. It is available in the prison
5 library for your review. You are not required
6 to admit your offense or discuss your offense if
7 you do not wish to; however, this Panel does
8 accept as true the findings of the Court, and
9 you are invited to discuss the facts and
10 circumstances of the offense if you desire. The
11 Board will review and consider any prior
12 statements you have made regarding the offense
13 in determining your suitability for parole.
14 Deputy Commissioner, is there confidential
15 material in the file?

16 **DEPUTY COMMISSIONER ARMENTA:** None.

17 **PRESIDING COMMISSIONER INGLEE:** I have
18 passed a Hearing Checklist marked Exhibit One to
19 your attorney and to ensure that we're all
20 proceeding with the same set of documents. And
21 do you have that document?

22 **ATTORNEY LUDWIG:** I do.

23 **PRESIDING COMMISSIONER INGLEE:** Are there
24 any additional documents to be submitted?

25 **ATTORNEY LUDWIG:** No, or yes?

26 **INMATE DUMLAO:** The letters?

27 **ATTORNEY LUDWIG:** We're not sure if some

1 of the letters made it into the file. And we
2 have a couple of letters.

3 **PRESIDING COMMISSIONER INGLEE:** Well,
4 let's take them one - - let's go through one at
5 a time and see if we have some? Do we have
6 anything else, Commissioner on that?

7 **DEPUTY COMMISSIONER ARMENTA:** I have one
8 letter from his former wife, concerning where
9 you would live on parole?

10 **INMATE DUMLAO:** Yes.

11 **PRESIDING COMMISSIONER INGLEE:** I have
12 that letter. I have a letter for the District
13 Attorney (indiscernible).

14 **ATTORNEY LUDWIG:** Okay, we have another
15 letter from (indiscernible).

16 **INMATE DUMLAO:** Yes.

17 **PRESIDING COMMISSIONER INGLEE:** Counselor
18 are there any preliminary objections?

19 **ATTORNEY LUDWIG:** No.

20 **PRESIDING COMMISSIONER INGLEE:** Will the
21 inmate be speaking to the Panel?

22 **ATTORNEY LUDWIG:** Yes.

23 **PRESIDING COMMISSIONER INGLEE:** In that
24 case would you please put your right hand up?
25 Do you solemnly swear or affirm that the
26 testimony you give at this meeting will be the
27 truth, the whole truth, and nothing but the

1 truth?

2 **INMATE DUMLAO:** Yes Sir.

3 **PRESIDING COMMISSIONER INGLEE:** Thank
4 you. If there's no objections, we will
5 incorporate by reference the Statement of Fact
6 from the probation officer's report, page two.

7 **ATTORNEY LUDWIG:** No objection.

8 **PRESIDING COMMISSIONER INGLEE:** Mr.
9 Dumlao, let's take a minute, and if you would
10 tell us about the crime. It was a very
11 complicated crime. I would like to hear your
12 side of it.

13 **INMATE DUMLAO:** I was hooked on drugs and
14 I was supporting my drug habit. And uh - -

15 **PRESIDING COMMISSIONER INGLEE:** What kind
16 of drugs were you on?

17 **INMATE DUMLAO:** Heroin.

18 **PRESIDING COMMISSIONER INGLEE:** Heroin?

19 **INMATE DUMLAO:** Yes Sir. And I was
20 committing these robberies to support my habit
21 Sir. No one was ^{hurt} ~~there~~ and I realized
22 this is a violent crime, but there was no
23 physical violence and I am sorry for
24 (indiscernible) these crimes. I wrote Mr.
25 Capelino (phonetic) a letter of apology, but it
26 was sent back by CDC saying I couldn't write
27 him.

1 **PRESIDING COMMISSIONER INGLEE:** You can
2 write a letter, (indiscernible), but it's got to
3 go through the District Attorney's office.

4 **INMATE DUMLAO:** Oh, well they sent it
5 back.

6 **PRESIDING COMMISSIONER INGLEE:** You need
7 to talk to your counselor about that, just have
8 them direct it, if you don't get a date today,
9 it's something you may want to consider. How
10 did it end up being a kidnapping?

11 **INMATE DUMLAO:** Uh, as we were leaving I
12 asked Mr. Capelino (phonetic) where is the rest
13 of the money? He said take me home, he says
14 I've got a few thousand dollars, some rare coins
15 and some cash. So we discussed it to see if we
16 was going to take him home. We asked him how
17 far he lived and he said only about a mile. And
18 we said all right. And we took him, we drove
19 him to his house and we got the money. I
20 handcuffed him, I left the keys in the handcuffs
21 and told him to give us ten minutes and then
22 call the police, and we left. But it was, we
23 never hurt nobody.

24 **PRESIDING COMMISSIONER INGLEE:**
25 Apparently taking him for a ride was not a smart
26 thing to do.

27 **INMATE DUMLAO:** No Sir.

1 **PRESIDING COMMISSIONER INGLEE:** Did you
2 know at the time that it was going to end up
3 being a kidnapping charge?

4 **INMATE DUMLAO:** No Sir. When I was first
5 arrested they charged me with central kidnap and
6 a 207 kidnap and 211 robbery. But when I
7 refused to the plea bargain, first it was eight
8 years and then he dropped it to six years. When
9 I refused that, then they remanded the complaint
10 to kidnap robbery.

11 **PRESIDING COMMISSIONER INGLEE:** Well you
12 put him in a vehicle and you took him someplace.

13 **INMATE DUMLAO:** Yes Sir.

14 **PRESIDING COMMISSIONER INGLEE:** With the
15 intent to get more money.

16 **INMATE DUMLAO:** Yes Sir.....

17 **PRESIDING COMMISSIONER INGLEE:** All
18 right, that was your mistake.

19 **INMATE DUMLAO:** Yes Sir.

20 **PRESIDING COMMISSIONER INGLEE:** The whole
21 mistake was robbing him to begin with.

22 **INMATE DUMLAO:** Right.

23 **PRESIDING COMMISSIONER INGLEE:** But it's
24 not the reason why we're here.

25 **INMATE DUMLAO:** Yes Sir.

26 **PRESIDING COMMISSIONER INGLEE:** I guess
27 you're very remorseful for the whole thing under

1 the circumstances.

2 **INMATE DUMLAO:** Yes Sir.

3 **PRESIDING COMMISSIONER INGLEE:** Well.

4 **INMATE DUMLAO:** And in 25-years I've lost
5 my seven family members, it wasn't worth it when
6 I was hooked on drugs.

7 **PRESIDING COMMISSIONER INGLEE:** And we
8 will go into it further, but you have a rather
9 impressive list of 115's. So your concerns have
10 continued while you've been in prison.

11 **INMATE DUMLAO:** I had nine years clean
12 from 1993 until 2002. And, uh - -

13 **PRESIDING COMMISSIONER INGLEE:** Two-
14 thousand three.

15 **INMATE DUMLAO:** And that's when I got my
16 last one, but I had nine years, going on ten
17 years.

18 **PRESIDING COMMISSIONER INGLEE:** Yeah.
19 Okay, well let's move on with this. Prior
20 criminality, in your juvenile record
21 (indiscernible) first arrest was at the age of
22 16 when he was arrested for grand theft, another
23 arrest for receiving stolen property and
24 burglary and numerous vehicle code violations
25 all led to (indiscernible) probation. You have
26 an impressive list of adult convictions. On
27 4/14/ '64 arrested receiving stolen property,

1 found guilty of petty theft. On 3/04 of 1966 of
2 burglary found guilty. On 4/8 of 1967 arrested
3 in Arizona for theft of interstate shipment,
4 found guilty, sentenced to 9-months Federal
5 Prison. On 4/01 1968 arrested malicious
6 mischief and vandalism, found guilty, sentenced
7 to ten days prison, jail. On 5/20 1968 arrested
8 for theft, found guilty, fined \$120.00 and
9 \$5.00. On 11/26 1968 arrested for selling tier
10 gas weapons and obstructing and resisting police
11 officers, found guilty and the Judgement
12 suspended. On 11/27 1968 arrested for
13 possession of dangerous injection kit. What was
14 a dangerous injection kit?

15 **INMATE DUMLAO:** A syringe.

16 **PRESIDING COMMISSIONER INGLEE:** For
17 drugs?

18 **INMATE DUMLAO:** Yes Sir.

19 **PRESIDING COMMISSIONER INGLEE:** One
20 hundred and eighty days in jail. On 7/31 1969
21 arrested for escape from the Saborita (phonetic)
22 Jail, found guilty of a misdemeanor. On 2/27 of
23 1975 arrested for petty theft, 90-days in County
24 Jail. On 4/01 1971 arrested for petty theft,
25 21-days in jail, one-year probation. On 5/05
26 (indiscernible) six, 1971 arrested for
27 disturbing the peace, received 90-days in jail.

1 How does someone get 90-days in jail for
2 disturbing the peace?

3 **INMATE DUMLAO:** What year was that? I
4 don't even remember.

5 **PRESIDING COMMISSIONER INGLEE:** It was
6 1971. I'm just curious what you did to disturb
7 the peace that gets you three months in jail,
8 that's all.

9 **INMATE DUMLAO:** I can't even remember
10 that one.

11 **PRESIDING COMMISSIONER INGLEE:** Okay well
12 that's not why we're here, but I just was
13 curious as to what that might have been.

14 (indiscernible) 22 of 1971, petty theft, 90-days
15 in jail. March 22nd 1971 arrested for burglary,

16 six months to 15-years, received six months to

17 15-years paroled. In 1975, November 29th, 1975

18 felony addiction possession, firearms, receiving
19 stolen property, 60-months probation and 365

20 days in jail. January 29th, 1975 arrested

21 felony addiction and possession of firearm -

22 addict in possession of firearms, was found

23 guilty, he received 180-days in jail. February

24 6th, 1980 arrested for grand theft property was

25 found guilty of burglary. And then in 1981 the

26 offense that you are currently incarcerated for.

27 That's a lot of activity in a relatively short

1 period of time, you stayed very busy.

2 INMATE DUMLAO: Yes Sir.

3 PRESIDING COMMISSIONER INGLEE: I assume
4 there must have been some times there you just
5 weren't caught.

6 INMATE DUMLAO: I wasn't stealing all the
7 time Sir. I was working at time too.

8 PRESIDING COMMISSIONER INGLEE: But
9 you've got to admit though, you kept pretty
10 busy.

11 INMATE DUMLAO: Yes Sir.

12 PRESIDING COMMISSIONER INGLEE:
13 (indiscernible) inside or observations that you
14 were concerned about your list of arrests?

15 INMATE DUMLAO: Well, I was a lot younger
16 and I'm more mature now. And I'm ready, I'm
17 ready to be paroled Sir. I can make a parole.
18 I've got everything going for me right now.
19 I've got family backing, I've got a potential
20 job.

21 PRESIDING COMMISSIONER INGLEE: Well,
22 we'll go through all those things, but first,
23 unfortunately we have to go through your prior
24 list of crimes. All right, let's talk about
25 your personal history. (indiscernible) was born
26 on January 29th, 1964 and what's the name of the
27 community you were ^{living} ~~born~~ in the ~~community~~?

1 INMATE DUMLAO: Man^{ti}ca, Tejerer Migante

2 Man^{ti}ca (phonetic).

3 PRESIDING COMMISSIONER INGLEE: Yeah,

4 okay, ~~Man^{ti}ca~~, I've been there.

5 (indiscernible) between (indiscernible) and an

6 American serviceman. His father died when

7 (indiscernible) was only two-years old. His

8 mother re-married and his stepfather adopted him

9 and his two older sisters. His mother's

10 marriage produced two more children.

11 (indiscernible) married in 1965 and was divorced

12 in 1972. This union produced two children and

13 on December 18th, 1979 he remarried but got a

14 divorce in 1982. (indiscernible) 1979 while

15 housed in the California Correctional Institute

16 (indiscernible) claims to have worked as his

17 housepainter, but due to his current addiction

18 he was not able to attend steady employment.

19 So, apparently you've had some, obviously you

20 had heroin problems, did you use any other drugs

21 besides heroin?

22 INMATE DUMLAO: Yes Sir, I was using

23 methamphetamine, no not this time Sir, but

24 before when I first started I was using

25 methamphetamine.

26 PRESIDING COMMISSIONER INGLEE: Is that

27 how you got started, meth?

1 **INMATE DUMLAO:** Yes Sir,

2 **PRESIDING COMMISSIONER INGLEE:** Yeah,

3 (indiscernible) you've had some internal
4 problems here. You have enemies within the
5 prison?

6 **INMATE DUMLAO:** I've never claimed any
7 enemies Sir.

8 **PRESIDING COMMISSIONER INGLEE:** It said
9 (indiscernible) placed in (indiscernible) in
10 5/24 of 2002 and he is still housed there due to
11 enemies.

12 **INMATE DUMLAO:** I've never claimed any
13 enemies.

14 **PRESIDING COMMISSIONER INGLEE:** Do you
15 (indiscernible) the time you were working?

16 **INMATE DUMLAO:** I guess they considered
17 them enemies, cause uh, well I was told that one
18 guy said that he had a problem with me and
19 that's why they kept us apart. But I never
20 claimed any enemies.

21 **PRESIDING COMMISSIONER INGLEE:** Okay.
22 (indiscernible) your parole plans.

23 **INMATE DUMLAO:** (Inmate whispers).

24 **PRESIDING COMMISSIONER INGLEE:** I'm
25 sorry? Getting back to your enemies for just a
26 moment, there is a list of ten, do you want me
27 to go through those?

1 **DEPUTY COMMISSIONER ARMENTA:** We can't
2 say their names.

3 **PRESIDING COMMISSIONER INGLEE:** Oh this
4 is confidential?

5 **DEPUTY COMMISSIONER ARMENTA:** Yeah,
6 Confidential.

7 **PRESIDING COMMISSIONER INGLEE:** Okay, all
8 right. Apparently you don't want to discuss
9 that and that's fine.

10 **INMATE DUMLAO:** I do want to discuss it.

11 **PRESIDING COMMISSIONER INGLEE:** All
12 right, let's go ahead.

13 **INMATE DUMLAO:** I don't - - I've never
14 claimed any enemies. They put a - - an inmate
15 at Tahatchapi was found with a list of guys and
16 since he was our friend; they put all them
17 enemies, seven people on our list in our files.
18 I don't even know them guys. They could walk
19 buy me and I wouldn't know them Sir. That's
20 what they did, you know, if you're - - that's
21 what they did, that's how I got seven enemies
22 right there. I don't even know them guys, they
23 could walk - - they could be in here, and I
24 wouldn't know it.

25 **PRESIDING COMMISSIONER INGLEE:** All
26 right. Are these enemies here in this prison,
27 or in other prisons?

1 **INMATE DUMLAO:** No, others.

2 **PRESIDING COMMISSIONER INGLEE:** Other
3 prisons?

4 **INMATE DUMLAO:** Yeah.

5 **PRESIDING COMMISSIONER INGLEE:** All
6 right, then I don't want to take up all day on
7 that, I just wanted to, if in fact you were
8 having an ongoing problems with people here, I
9 wanted to know about it.

10 **INMATE DUMLAO:** I, I, there's at least
11 eight of them people I don't even know of.

12 **PRESIDING COMMISSIONER INGLEE:** Yeah.
13 Are you still planning to go to, do you want
14 through the Delancey (phonetic) Street Program
15 in San Francisco?

16 **INMATE DUMLAO:** Sir, I'm going to parole
17 with my ex-wife and her daughter and I'm going
18 to get in an outpatient drug program to make
19 sure I stay off heroin.

20 **PRESIDING COMMISSIONER INGLEE:** All
21 right. How long have you, are you going to NA
22 now?

23 **INMATE DUMLAO:** Uh, I went to NA, they
24 didn't, they haven't had it here, it just
25 started right now, but they haven't had it here
26 since I've been here. I've been here two years
27 and I - - but at Calipatria State Prison I went

1 for 18-months AA, NA, I have certificates right
2 here.

3 PRESIDING COMMISSIONER INGLEE: Okay,
4 well, Mr. Armenta will go through that.

5 INMATE DUMLAO: Okay.

6 DEPUTY COMMISSIONER ARMENTA: Can I have
7 it?

8 INMATE DUMLAO: Yeah, (indiscernible)
9 letters of support, and all that:

10 PRESIDING COMMISSIONER INGLEE: Do you
11 have more letters here that I don't have?

12 INMATE DUMLAO: Excuse me?

13 PRESIDING COMMISSIONER INGLEE: Do you
14 have letters of support here that I do not have.

15 DEPUTY COMMISSIONER ARMENTA: I didn't
16 know you had copies; she sent me a copy too.

17 PRESIDING COMMISSIONER INGLEE: Okay.
18 But you don't have any additional ones?

19 DEPUTY COMMISSIONER ARMENTA: No.

20 PRESIDING COMMISSIONER INGLEE: Mr. - -

21 INMATE DUMLAO: Uh, no Sir.

22 PRESIDING COMMISSIONER INGLEE: Okay.

23 INMATE DUMLAO: I just have the letter
24 from, also from, Sister Marcella, who is my
25 Coordinator at a Anger Management Program.
26 She's the one - -

27 PRESIDING COMMISSIONER INGLEE:

1 (indiscernible) I guess. This letter hasn't,
2 oh, it - -

3 **DEPUTY COMMISSIONER ARMENTA:** It has been
4 (indiscernible).

5 **PRESIDING COMMISSIONER INGLEE:** It's okay
6 for me to look at this?

7 **INMATE DUMLAO:** Yes Sir.

8 **PRESIDING COMMISSIONER INGLEE:** Did the -
9 - uh, you'll want this back?

10 **INMATE DUMLAO:** No I have it.

11 **PRESIDING COMMISSIONER INGLEE:** Okay,
12 (indiscernible).

13 **DEPUTY COMMISSIONER ARMENTA:** Yeah that's
14 in his file.

15 **PRESIDING COMMISSIONER INGLEE:** And your
16 employment plans, you want to go into training
17 at the Delancey (phonetic) Street Program. I am
18 familiar with Delancey (phonetic) Street in a
19 general nature, but tell me about what you find
20 to do with Delancey (phonetic)?

21 **INMATE DUMLAO:** Well I write them. I
22 have a couple letters from them; they told me
23 that if I can get to San Quentin they'd come an
24 interview me. And if I get accepted that upon
25 my release they'd pick me up. They said if I
26 could get to Vacaville or San Quentin, that's
27 the only two places they said they would

1 interview me. And uh - -

2 **PRESIDING COMMISSIONER INGLEE:** I was at
3 Vacaville last week, I saw Delancey (phonetic)
4 Street at a couple hearings.

5 **INMATE DUMLAO:** Yes Sir.

6 **PRESIDING COMMISSIONER INGLEE:** Well,
7 moving from one prison to another is not an easy
8 thing to do.

9 **INMATE DUMLAO:** I know. I have a couple
10 letters here from, one is from the Psychiatrist,
11 Dr. Armenta and from the CMO, recommending I go
12 to Vacaville, and they said if I can get the
13 Board to recommend it they'd send me down there.
14 Here's the letters from them.

15 **PRESIDING COMMISSIONER INGLEE:**

16 Unfortunately we cannot - - we can put in here
17 that it's a desirable thing to do, but we can't,
18 we have no influence beyond that point.

19 **INMATE DUMLAO:** They say if I can to
20 either one of them they'd come see me.

21 **PRESIDING COMMISSIONER INGLEE:** Is this
22 one of your relatives?

23 **INMATE DUMLAO:** Uh huh.

24 **PRESIDING COMMISSIONER INGLEE:** Well of
25 course what he's saying here is on this, what
26 appears, looks like almost a chrono is that he's
27 suggesting this would be done because of the, to

1 be closer to your family.

2 **INMATE DUMLAO:** Well I also have kidney
3 stones and gall stones and that was another
4 reason.

5 **PRESIDING COMMISSIONER INGLEE:** Cause at
6 Vacaville because of the medical facility?

7 **INMATE DUMLAO:** Yes Sir. They have a
8 diet kitchen there.

9 **PRESIDING COMMISSIONER INGLEE:** All
10 right, well let's just quickly go through the
11 letters you have here. And this is from Sister
12 Marcella?

13 **INMATE DUMLAO:** Yes Sir.

14 **PRESIDING COMMISSIONER INGLEE:** And she
15 is talking about the drug plan that you
16 completed.

17 **INMATE DUMLAO:** She also, excuse me, but
18 she also wrote a letter to my counselor and it
19 should be in the miscellaneous section. I seen
20 a copy in there.

21 **PRESIDING COMMISSIONER INGLEE:** This
22 letter.

23 **INMATE DUMLAO:** For the Board from Sister
24 Marcella, it was in the miscellaneous section.

25 **PRESIDING COMMISSIONER INGLEE:** So to let
26 you know how this hearing goes, (indiscernible).
27 Captain Chaplain's Office - -

1 **DEPUTY COMMISSIONER ARMENTA:** It's right
2 here.

3 **PRESIDING COMMISSIONER INGLEE:** Oh, this
4 is 1992. This letter has a new date I think
5 here.

6 **INMATE DUMLAO:** That was the, excuse me,
7 that was the letter she wrote me and she wrote
8 the Board one right there.

9 **DEPUTY COMMISSIONER ARMENTA:** All it says
10 is that you did complete the program,
11 (indiscernible) certificate.

12 **PRESIDING COMMISSIONER INGLEE:** And this
13 is 19 - - this is 2003. This one is outdated.

14 **INMATE DUMLAO:** I also have a letter from
15 Delancey Street I gave to Counselor Barrios
16 (phonetic).

17 **PRESIDING COMMISSIONER INGLEE:** And your
18 (indiscernible) talks about availability but
19 this is a fairly expensive process.

20 **INMATE DUMLAO:** I wrote about 15
21 programs.

22 **PRESIDING COMMISSIONER INGLEE:** Well
23 that's good. I think these outpatient programs
24 are excellent. Several people who I've
25 recommended for dates, that's one of the things
26 that was good for them because they have a place
27 to go to make an easy transition into free life.

1 **INMATE DUMLAO:** Yes Sir.

2 **PRESIDING COMMISSIONER INGLEE:** And they
3 also in many cases were good job opportunities
4 through those kind of things.

5 **INMATE DUMLAO:** Right.

6 **PRESIDING COMMISSIONER INGLEE:** So that's
7 I think what your aiming at is good. What
8 you've got to do is start to update these
9 things.

10 **INMATE DUMLAO:** Yes Sir.

11 **PRESIDING COMMISSIONER INGLEE:** These are
12 1992, 2003 and so if you don't get a date today
13 when you come back in for another hearing you
14 really should have these within the year that
15 your coming into the hearing, within 12-months
16 from that hearing. Okay. We sent out four 3042
17 letter that went out to the various agencies
18 that, either police agencies or Courts dealing
19 with incarceration, they were sent out in June
20 1st of 2005. We received one letter back that
21 was from the District Attorney's Office in
22 Alameda County. "We are recommending that you
23 deny parole to John Dumlao who is a dangerous
24 prisoner. Our conclusion is based on several
25 factors, the factor is the committing offense,
26 the prisoners par of criminality and for the
27 basic reasons why (indiscernible) of commitment

1 are frightening on December 29th 1980 the
2 prisoner participated in an armed takeover
3 robbery of an antique store. The prisoner was
4 (indiscernible) the store (indiscernible) the
5 victim, Mr. Capelino". Is Mr. Capelino still
6 alive?

7 **INMATE DUMLAO:** I don't know Sir.

8 **PRESIDING COMMISSIONER INGLEE:** It sounds
9 like you've tried to make some contact with him.

10 **INMATE DUMLAO:** The last time I wrote him
11 a letter of apology and they just sent it back.
12 CDC said I couldn't write to him.

13 **PRESIDING COMMISSIONER INGLEE:** That's
14 true. They don't want prisoners writing to
15 victims because it can be frightening to some
16 people perhaps to relive frightening events.
17 However, there are ways of doing it. And I
18 believe the way, if I'm not mistaken, Mr.
19 Armenta is to go through the District Attorney's
20 Office.

21 **DEPUTY COMMISSIONER ARMENTA:** Yes.

22 **PRESIDING COMMISSIONER INGLEE:** And then
23 they contact the people and provide, but that
24 process, I must admit I don't know. You at
25 least should speak to your counselor about that.
26 "the prisoner participated in armed takeover
27 robbery. Mr. Capelino was handcuffed behind his

1 back, forced to lye on the floor (indiscernible)
2 asked where the safe and (indiscernible) were.
3 He indicated he did not have either, prisoner
4 took the victim's wallet money and several
5 pieces. Prisoner then placed the muzzle of his
6 firearm at the back of Mr. Capelino's head and
7 demanded more property. Fearing his life, Mr.
8 Capelino told the prisoner that his valuables
9 were at home. He then took him to his home,
10 once there the prisoner took (indiscernible)
11 cash, (indiscernible) in rare coins and various
12 other articles. The prisoner (indiscernible)
13 the victim with (indiscernible) telephone cord
14 out of the wall and it was used to tie the
15 victims legs together. The prisoner was
16 convicted by a jury verdict and sentenced to
17 state prison". A real extensive, he says you
18 have extensive criminal history that goes back
19 to '64, not only miscellaneous mischief, theft,
20 (indiscernible), petty theft, disturbing the
21 peace, burglary and various other things we've
22 already discussed. According to the records the
23 prisoner is a sixth timer. His criminal history
24 shows that he is in fact a career criminal. The
25 records indicate the prisoner had numerous
26 violations while in the State Prison, most
27 recently a CDC 115, March the 21st of '03 for

1 battery, CDC 115 August 16th '03 for mutual
2 combat. He has prior 115's for battery in 2001
3 participation in a racial riot. Tell me about
4 the racial riot?

5 **INMATE DURLAO:** It was going on for about
6 a year. And then at about the eighth month,
7 they said, we're going to pick two buildings; I
8 mean one building, two tiers, two cells off each
9 tier.

10 **PRESIDING COMMISSIONER INGLEDY:** This
11 fighting between racial groups was going after
12 individuals.

13 **INMATE DURLAO:** Yes Sir, blacks and
14 whites, yeah.

15 **PRESIDING COMMISSIONER INGLEDY:** Okay.

16 **INMATE DURLAO:** They picked two blacks,
17 they picked our building, two black cells, two
18 white cells. They told us to go out to the yard
19 and they had the yard empty except for about 30
20 officers and a video camera. And they made a
21 line in between the yard. And they had the four
22 blacks sitting on the other side and four of us
23 over here. And they said when you give the
24 signal, they said, you guys all go out to the
25 middle of the yard to the line and meet. And
26 they gave the signal and we all walking towards
27 the line and it's all on video - - and uh, I was

1 fighting with two blacks so they dropped it to a
2 mutual combat, they dropped mine to mutual
3 combat.

4 **PRESIDING COMMISSIONER INGLEE:** You've
5 lost me. You got a line of black men, you've
6 got a line of white men, and they brought you
7 together and you started fighting?

8 **INMATE DUMLAO:** We were rushed. We had
9 to, it's either defend yourself or run.

10 **PRESIDING COMMISSIONER INGLEE:** That was
11 the intent of what the prison did, or had they
12 planned something else to happen?

13 **INMATE DUMLAO:** I don't know what they
14 planned to happen but they had 30 officers out
15 there with block guns and tier gas and this
16 video.

17 **PRESIDING COMMISSIONER INGLEE:**
18 (indiscernible) that you're familiar with? What
19 year was that?

20 **INMATE DUMLAO:** Two thousand and two.

21 **PRESIDING COMMISSIONER INGLEE:** All
22 right.

23 **INMATE DUMLAO:** So they watched the video
24 after in the hole and they dropped it to a
25 mutual combat because it showed that I wasn't
26 the aggressor I was just defending myself.

27 **PRESIDING COMMISSIONER INGLEE:** It says

1 that the prisoner has no clear plan for leading
2 a law abiding life, because of the waiver of
3 hearing stipulation that goes to your past
4 history here at the prison. It says you're
5 planning to live at Delancey Street report he
6 has additional resident plan to live with Jody
7 Audivanger (phonetic)

8 **INMATE DUMLAO:** Audivanger (phonetic).

9 **PRESIDING COMMISSIONER INGLEE:** Okay, his
10 girlfriend in Alameda, which is not even the
11 same county as Delancey Street. Where exactly
12 does the prisoner really plan to live, San
13 Francisco or Alameda? It's a good point. Where
14 do you plan to live? Because you have a letter
15 here, then you have your concern with Delancey
16 Street.

17 **INMATE DUMLAO:** Well I'd like to talk to
18 Delancey Street to see if they'll accept me, I'd
19 like to go to Delancey Street if they'll accept
20 me. But they said the only way they can accept
21 me is if I can get the San Quentin or Vacaville.

22 **PRESIDING COMMISSIONER INGLEE:** I
23 understand.

24 **INMATE DUMLAO:** If they'll accept me I'd
25 like to go to Delancey Street. But they said I
26 have to go down there for the interview. They
27 can't just accept me.

1 **PRESIDING COMMISSIONER INGLEE:** And you
2 have your girlfriend in Alameda, you have a wife
3 in San Bernardino County?

4 **INMATE DUMLAO:** Ex-wife.

5 **PRESIDING COMMISSIONER INGLEE:** Former,
6 okay.

7 **INMATE DUMLAO:** I've been married three
8 times Sir.

9 **PRESIDING COMMISSIONER INGLEE:** So you're
10 no longer married to Mrs. Guzman (phonetic)?

11 **INMATE DUMLAO:** Gosman (phonetic). No
12 Sir.

13 **PRESIDING COMMISSIONER INGLEE:** Guzman,
14 Gosman (phonetic). Okay. (indiscernible) "The
15 prisoner poses an unreasonable risk of
16 dangerousness to society and would be a threat
17 to public safety if released. The prisoner
18 should not be paroled (indiscernible) to deny
19 parole to this prisoner, signed Timothy Whalen,
20 Deputy District Attorney".

21 **INMATE DUMLAO:** Excuse me Sir, I have no
22 violence on my - - I've never convicted of any
23 violence and I was offered a six-year plea
24 bargain on this because I'm not a violent
25 person, I have no violence. I've never been
26 convicted - - I realize I have a history of
27 property theft, but I've never hurt nobody.

1 **PRESIDING COMMISSIONER INGLEE:** Well - -

2 **INMATE DUMLAO:** I've never taken nobody's
3 life.

4 **PRESIDING COMMISSIONER INGLEE:** Well if
5 you've ever had anything stolen from you, you
6 know that hurts you. It may not hurt you
7 physically, you may not see any wounds on
8 somebody, but you know, that's a - -
9 particularly somebody who doesn't have many
10 assets, to lose, to lose their property can be
11 pretty traumatic. Well you have, let me just
12 take you very quickly - - I'm not going to go
13 through all of them, Mr. Armenta will do this,
14 but I mean you, your participation in a - - I
15 know your story, but participation in a race
16 riot, battery on an inmate, conspiracy to
17 assault the Aryan Brotherhoods ~~enemies~~ I
18 mean, you got three in a row that indicates that
19 you don't mind mixing it up.

20 **INMATE DUMLAO:** Sir, like the assault at
21 Calipat, that's the person I was talking about
22 who said that we have problems. He was in the
23 hole also for he had assault on a staff and they
24 had him in the hole, well I don't know, I guess
25 they - - somehow got him, you know, didn't
26 realize that we weren't friends and they put us
27 in the same cell. And - -

1 **PRESIDING COMMISSIONER INGLEE:** Is this
2 the Aryan Brotherhood you talking about?

3 **INMATE DUMLAO:** No, no I've been cleared
4 by Sacramento and all that.

5 **PRESIDING COMMISSIONER INGLEE:** Because
6 sometimes these records are not as exact as they
7 should be. Mr. Armenta has the records so I'm
8 going to go, rather than getting further into
9 this I'm going to turn it over to him and let
10 him handle that.

11 **INMATE DUMLAO:** Okay.

12 **DEPUTY COMMISSIONER ARMENTA:** Let's go
13 over what you've been doing. In prison since
14 your last hearing, you had your last hearing in
15 the year 2000. At that time you were denied for
16 two years and you came back for a hearing in
17 2003 and the hearing was held, but apparently
18 there was a problem with the tape, so they have
19 to redo the hearing. And you came back on April
20 18th, 2004 and at that time you did sign a
21 (indiscernible) for a year.

22 **INMATE DUMLAO:** Yes Sir.

23 **DEPUTY COMMISSIONER ARMENTA:** So now your
24 back, okay. What I've done, I've gone over your
25 C-Files, you have few. And I've gone over the
26 files and read some of the reports prepared by
27 CC Juan Larios (phonetic), there was one report

1 prepared for this hearing entitle the Life
2 Prisoners Evaluation Report, also the Post-
3 Conviction Progress Report. Also prepared by CC
4 Juan Larios (phonetic) also reviewed the
5 psychological report prepared by Dr. Maki dated
6 April 6th 2004. At the present time, your
7 point, your scores are 59.

8 **INMATE DUMLAO:** Yes Sir, they'll be 55 in
9 September, in two months.

10 **DEPUTY COMMISSIONER ARMENTA:** Yeah, and
11 they were 49 a few years ago, they were lower.
12 And they went up, and they went up probably
13 because of your 115's you received in 2003.

14 **INMATE DUMLAO:** Well after, before I - -

15 **DEPUTY COMMISSIONER ARMENTA:** I'm just
16 telling you, okay, well get to that. You'll get
17 a chance when I'm done you will be able to tell
18 us, okay? But anyway you have a total of 21
19 115's and like I just stated you two most recent
20 ones were in the year 2003. A total of seven
21 128's and the most recent on July 30th 2000.
22 You've been involved in some training, you've
23 been involved in quite a few training courses,
24 but I didn't see anything here Sir that you had
25 got completed at (indiscernible).

26 **INMATE DUMLAO:** I have a completion in
27 silk-screening, I have 2200 hours of silk-

1 screening.

2 **DEPUTY COMMISSIONER ARMENTA:** Silk-
3 screening, okay. I'll look for it right now.

4 **INMATE DUMLAO:** It was my, when I was on
5 the level one.

6 **DEPUTY COMMISSIONER ARMENTA:** Okay you
7 got your, you've been trained and taken part in
8 training classes like, you know, computer
9 related technology, auto, auto mechanics.

10 **INMATE DUMLAO:** Yes Sir.

11 **DEPUTY COMMISSIONER ARMENTA:** Shoe repair
12 and vocational plumbing.

13 **INMATE DUMLAO:** Yes Sir.

14 **DEPUTY COMMISSIONER ARMENTA:** You've
15 learned from work while in prison, you've worked
16 as a porter, you worked on the yard crew and in
17 the boiler room.

18 **INMATE DUMLAO:** Yes Sir.

19 **DEPUTY COMMISSIONER ARMENTA:** As well as
20 clothing, the clothing exchange. Have you had
21 any other jobs?

22 **INMATE DUMLAO:** No Sir.

23 **DEPUTY COMMISSIONER ARMENTA:** You've
24 taken classes in anger management and we do have
25 your certificate that you showed us. And that
26 was by Creative Options, right?

27 **INMATE DUMLAO:** Yes.

1 **DEPUTY COMMISSIONER ARMENTA:** Okay, on
2 March 12th, signed March 12th 2005. And then I
3 did mention your 115's, so you can tell me
4 whatever you wish now.

5 **INMATE DUMLAO:** It was in regards to my
6 points. Before I left Calipatria.

7 **DEPUTY COMMISSIONER ARMENTA:** Uh huh.

8 **INMATE DUMLAO:** Counselor Cryman
9 (phonetic) stated that he found eight points
10 that shouldn't be there. And he said there was
11 a 115 that I was given six points for twice in
12 1980-something in San Quentin. And then there
13 was another 115 that when they changed the
14 level, I mean when they changed the point system
15 from six to four I should have only been given
16 four, he said that's eight points and they
17 haven't corrected that.

18 **DEPUTY COMMISSIONER ARMENTA:** Oh, okay.

19 **INMATE DUMLAO:** And it can be verified by
20 Counselor Cryman (phonetic) at Calipat's and
21 they haven't done it yet. So actually I should
22 have been level three a while back.

23 **DEPUTY COMMISSIONER ARMENTA:** Oh, okay.
24 You mean you should be under 50?

25 **INMATE DUMLAO:** Yes Sir.

26 **DEPUTY COMMISSIONER ARMENTA:** Okay. Then
27 let's go over your psychological report.

1 There's two areas that I cover. One is call the
2 diagnosis, under Axis I, heroin addiction in
3 remission due to incarceration. And under Axis
4 II is social personality disorder, Axis III,
5 which is the medical, it says "history of
6 asthma, hepatitis-C and kidney gall stones".
7 Under Axis IV, which is the stressors, is due to
8 being incarcerated gives you a functional score
9 between 61 and 70. In the area of whether they
10 consider you a danger or not, under that section
11 of assessment to dangerousness, "Within a
12 controlled setting Mr. Dumlao danger potential
13 is judged to be low to average. When on drugs
14 and lacking structure it is much higher as
15 evidenced by his incident offense". Okay, is
16 there anything else you wish to add? Anything
17 you want to say about this, the report Sir?

18 **INMATE DURLAO:** No Sir.

19 **DEPUTY COMMISSIONER ARMENTA:** And what
20 was stated? Anything else you want to say about
21 your 115's?

22 **INMATE DURLAO:** No Sir.

23 **DEPUTY COMMISSIONER ARMENTA:** What about
24 AA, NA, I didn't see too much in your files.

25 **INMATE DURLAO:** I have two certificates
26 18-months in AA and NA.

27 **DEPUTY COMMISSIONER ARMENTA:** Uh huh.

1 **INMATE DUMLAO:** And they haven't had it
2 here. I was on the list. Counselor Lorios has
3 put me on the list last year.

4 **DEPUTY COMMISSIONER ARMENTA:** Okay.
5 You've been in prison how long?

6 **INMATE DUMLAO:** Twenty-five years, almost
7 25-years.

8 **DEPUTY COMMISSIONER ARMENTA:** Twenty-five
9 years and you've taken part in a year and a half
10 in AA, NA?

11 **INMATE DUMLAO:** Yes Sir.

12 **DEPUTY COMMISSIONER ARMENTA:** That's not
13 very much.

14 **INMATE DUMLAO:** No Sir, I went to it at
15 Tahatchapi, but I just didn't get a certificate.

16 **DEPUTY COMMISSIONER ARMENTA:** When was
17 the last time you used heroin?

18 **INMATE DUMLAO:** Nineteen, well, 1987.

19 **DEPUTY COMMISSIONER ARMENTA:** Ninety-
20 seven?

21 **INMATE DUMLAO:** No, I was at Folsom Sir.

22 **DEPUTY COMMISSIONER ARMENTA:** Folsom,
23 okay. Anything else?

24 **INMATE DUMLAO:** No Sir.

25 **DEPUTY COMMISSIONER ARMENTA:** That I
26 didn't cover? Okay, thank you that concludes
27 that portion.

1 **PRESIDING COMMISSIONER INGLEE:** You've
2 been in prison a long time.

3 **INMATE DUMLAO:** Yes Sir.

4 **PRESIDING COMMISSIONER INGLEE:** The crime
5 was a bad crime, but that's a long time for
6 being for a non-capital crime.

7 **INMATE DUMLAO:** Yes Sir.

8 **PRESIDING COMMISSIONER INGLEE:** I think
9 it's quite obvious that your 115's are what has
10 kept you around.

11 **INMATE DUMLAO:** Yes Sir.

12 **PRESIDING COMMISSIONER INGLEE:** I
13 recognize that some of those 115's you have a
14 concern about that you might not have been
15 totally at fault, but that's a fairly impressive
16 list. You have to start taking a look at
17 yourself in regard to, you know, some of these
18 thing. You have to start understanding that to
19 be able to get parole.

20 **INMATE DUMLAO:** Yes Sir.

21 **PRESIDING COMMISSIONER INGLEE:** You're
22 going to have to prove to a Hearing, either
23 today or in the future that you're going to be a
24 trustworthy person to let outside.

25 **INMATE DUMLAO:** If I'm given a date Sir,
26 I'll keep it clean.

27 **DEPUTY COMMISSIONER ARMENTA:** Can I tell

1 him something?

2 **PRESIDING COMMISSIONER INGLEE:** Sure, go
3 ahead.

4 **DEPUTY COMMISSIONER ARMENTA:** You've got
5 the type of offense that I've seen many inmates
6 get dates for. Like you said, you know, like
7 the Commissioner stated you're not in, you don't
8 have a you know capitol crime. You do have the
9 time of offense where people have gotten dates.

10 **INMATE DUMLAO:** If I'm given a date Sir,
11 I can make this parole and I'll keep it clean.
12 I won't get no 115's.

13 **DEPUTY COMMISSIONER ARMENTA:** Yeah, but
14 your not going to be getting 115's out there.

15 **INMATE DUMLAO:** No, I mean you can give
16 me any kind of date and I'll keep it clean. I
17 can walk away from something, you know. But
18 sometimes there's, like that riot, I just
19 couldn't walk away from. And if I'd have ran I
20 wouldn't be here now, you know.

21 **DEPUTY COMMISSIONER ARMENTA:** Okay.

22 **INMATE DUMLAO:** I had to defend myself.

23 **DEPUTY COMMISSIONER ARMENTA:** I have to
24 turn the tape over.

25 [Off the record]

26 **DEPUTY COMMISSIONER ARMENTA:** Okay we are
27 on side two of the tape. Go ahead.

1 **INMATE DUMLAO:** They told me if I
2 wouldn't have gotten in that race riot I'd have
3 got a date, but it was, I couldn't avoid it, it
4 was unavoidable. I had to defend myself; it was
5 either defend myself or run. I had nine years;
6 almost ten years clean at the time.

7 **DEPUTY COMMISSIONER ARMENTA:** Yeah, but
8 even after that one Sir, you got two, two more.

9 **INMATE DUMLAO:** One should have never
10 happened, they accidentally put me in with this
11 guy who said he had problems with me.

12 **DEPUTY COMMISSIONER ARMENTA:** Uh huh.

13 **PRESIDING COMMISSIONER INGLEE:** I think
14 what you've got to come to grips with is that I
15 see guys, just last week, same crime, exactly
16 the same crime, ~~kidnap for robbery, and it was~~
17 even simpler than your crime. And he got a
18 date. The reason he got a date was he had gone
19 ten years without anything, not even a 128. Now
20 I recognize that you're in prison and I'm not, I
21 understand that. I realize life for you is far
22 more complicated and difficult than it is for
23 someone who is on the outside. But there are
24 some men who stay away from these things.

25 **INMATE DUMLAO:** I stayed ten years clean.
26 I was ten years clean, I was doing good.

27 **PRESIDING COMMISSIONER INGLEE:** Clean,

1 ten or nine?

2 **INMATE DUMLAO:** Well nine actually.

3 **PRESIDING COMMISSIONER INGLEE:** Okay,
4 almost ten. Well, might as well
5 (indiscernible).

6 **INMATE DUMLAO:** I was clean for that
7 whole time and I had job offers and everything.

8 **PRESIDING COMMISSIONER INGLEE:** From
9 where?

10 **INMATE DUMLAO:** From, uh, it's in there,
11 from Gosni (phonetic) Construction and Back Hoe
12 Company in San Bernar - - in Wilmington, that's
13 my ex-wives ex-husband and he owns the company
14 and he wrote a letter, it's in there, stating
15 that he'd give me a job as soon as I was
16 released. And she wrote a letter in there to
17 that she owns five-bedroom home that's paid for
18 in Wilmington and that she can back me up on
19 anything I needed and help me make a parole.

20 **DEPUTY COMMISSIONER ARMENTA:** Yeah, he
21 didn't have a 115 from, actually from '92 to
22 2001.

23 **PRESIDING COMMISSIONER INGLEE:** How did
24 you accomplish that?

25 **INMATE DUMLAO:** I stayed clean. I just -

26 **PRESIDING COMMISSIONER INGLEE:** I mean
27 you're an older, you're a more mature man today.

1 If anything you should be going down on 115's,
2 not up on 115's as you get older. I mean, I'm
3 not sitting here trying to make you feel bad.
4 I'm just being very franc with you about this.
5 I love to give guys dates, I really do.

6 **INMATE DURLAO:** I've got two years clean.
7 I realize that last fistfight, that should have
8 been a, that shouldn't have happened. But I
9 just had to defend myself.

10 **DEPUTY COMMISSIONER ARMENTA:** He's not
11 older, he's my age.

12 **PRESIDING COMMISSIONER INGLEE:** I said
13 mature.

14 **DEPUTY COMMISSIONER ARMENTA:** Oh, okay.
15 Yeah, I know what you said.

16 **PRESIDING COMMISSIONER INGLEE:** Hey you
17 guys are all younger than I am. We're not in
18 prison and you are unfortunately for you, but
19 no, I, you know so I have an appreciation for
20 what you're going through. But it's hard to see
21 you go that long and then jump, get two or three
22 of these things in a row.

23 **INMATE DURLAO:** I can make a parole our
24 if Sir. I have backing, I have everything. I
25 just need a chance.

26 **PRESIDING COMMISSIONER INGLEE:** Okay.
27 Counselor, do you have any questions?

1 **ATTORNEY LUDWIG:** I have no questions.

2 **PRESIDING COMMISSIONER INGLEE:** Do you
3 have a closing statement?

4 **ATTORNEY LUDWIG:** Well I have a brief
5 closing statement. Mr. Dumlao's Psych report
6 says, "if on drug and lacking structure, then he
7 perhaps may be an average to high risk to the
8 community". He has stated that he has plans for
9 Delancey Street, and he also has a stable living
10 arrangement with his ex-wife and or daughter
11 when he gets out. So he has plans to eliminate
12 both of those risk factors. And since he has
13 that I think he's suitable for parole.

14 **PRESIDING COMMISSIONER INGLEE:** Thank you
15 very much. Mr. Dumlao you can go on what your
16 attorney said or you can make statement
17 regarding acceptability for parole.

18 **INMATE DURLAO:** I agree with her. I can
19 make a parole Sir, if given the chance. I can
20 make it now as I can another year from now, I
21 can make it right now Sir; all I need is a
22 chance. I'm going to get into Delancey Street
23 if I can get to San Quentin or Vacaville;
24 they'll come interview me. I know I'll get
25 accepted, I'll get accepted and I'll complete
26 that program. All I want is a chance. Well if
27 you don't get a date I'll put a notation on your

1 file that that's what you're looking for, but
2 that's something we'll discuss right now unless
3 you have something else to say?

4 **INMATE DUMLAO:** No Sir.

5 **PRESIDING COMMISSIONER INGLEE:** With that
6 in mind then, we're going to take a recess for
7 deliberations.

8 **R E C E S S**

9 **--oOo--**

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1 CALIFORNIA BOARD OF PAROLE HEARINGS

2 D E C I S I O N

3 PRESIDING COMMISSIONER INGLEE: Okay, it
4 is 3:00 p.m., all of the people who were here
5 prior to our recess are back in place. In the
6 matter of John Dumlao, Dumlao. Will you
7 pronounce that again for me?

8 INMATE DUMLAO: D-U-M-L-A-Y-O (phonetic).

9 PRESIDING COMMISSIONER INGLEE: Dumlao,
10 Dumlao, I'm sorry. John Dumlao CDC number C-
11 16555. The Panel reviewed all information
12 received from the public and relied on the
13 following circumstances in concluding that the
14 prisoner is still not suitable for parole and
15 would pose unreasonable risk of danger to
16 society or a threat to public safety if released
17 from prison. In regard to the offense in
18 consideration was carried out in a
19 (indiscernible) manner. The motive of the crime
20 was trivial in relation to offense. These are
21 conclusions that were drawn from - - the inmate
22 committed offense involving the kidnap of a
23 (indiscernible) of a business. He was in an
24 antique sh - -, antique sh - - antique store at
25 the time that the inmate and his crime partner
26 entered in an attempted to rob it. They took
27 JOHN DUMLAO C-16555 DECISION PAGE 1 7/06/05

1 him to his residence where he because he didn't
2 have sufficient money actually at the store, and
3 at the residence they did take cash
4 (indiscernible) articles, leaving him on the
5 floor tied up by a telephone cord. In addition
6 the inmate was also convicted of a robbery of an
7 antique and coin collection exchange. There
8 were five victims in that robbery
9 (indiscernible) the inmate and his crime
10 partners took \$40,000 in gold jewelry, silver,
11 cash as well as wallets of the victims plus
12 multiple victims were attacked and involved in a
13 totally separate incident. The prisoner has had
14 an escalating pattern of criminal conduct as
15 well as previous grants of probation and parole
16 and cannot be counted upon to avoid criminality...
17 or to profit from society's previous attempts to
18 correct his criminality. Such attempts included
19 juvenile probation, adult probation, parole,
20 county jail and prior prison term, one of being
21 a Federal Prison. Unstable history of
22 criminality, juvenile record starting at the age
23 of 16 he was arrested for grand theft, at 17
24 convictions of arrests starting in 1964 through
25 1980 prior to the incident offense which caused
26 his current incarceration. The prisoner has
27 **JOHN DURLAO C-16555 DECISION PAGE 2 7/06/05**

1 programmed in a limited manner while
2 incarceration. Failed to develop true marketing
3 skills and (indiscernible) he could use upon
4 release. Has failed to mature and upgrade
5 himself educationally and vocationally. Has not
6 sufficiently participated in self-help program.
7 Has had seven 128 counseling chronos, the last
8 being 7/30 of 2000, obstructing a peace officer,
9 and had had 21 serious 115 disciplinary reports,
10 the last being 8/16 of '03 of mutual combat and
11 then in the same year, 3/21 of '03 battery on an
12 inmate. The Psychological Report dated 4/6 of
13 '04 by R. Menke (phonetic), Doctor of Psychology
14 is unfavorable in that the doctor says, "Within
15 a controlled setting Mr. Dumlao's danger
16 potential is judged to be low to average. When
17 on drugs of lacking structure it is much higher
18 as evidenced by his incident offense". Mr.
19 Dumlao recognizes that the CCD 115's will not
20 help his chance for parole. He continued to
21 minimize or rationalize his criminal conduct,
22 although it is probably less than this time than
23 earlier, he lacks empathy and remorse. His
24 parole plans, he appears to have a residential
25 plan, however he does not have an acceptable
26 employment plan. The Hearing Panel noted
27 JOHN DUMLAO C-16555 DECISION PAGE 3 7/06/05

1 responses to PC 3042 Notices indicated
2 opposition to finding of parole suitability,
3 specifically from the District Attorney of
4 Alameda County. The prisoner should be
5 commended for his high school graduation,
6 vocational silk-screening certificate, anger
7 management Creative Options, and participation
8 in AA and NA. I must say though, since your
9 participation in Alcoholics Anonymous and
10 Narcotics Anonymous you've apparently had
11 problems getting into that program, but that's
12 something you should work on very hard
13 (indiscernible). In a separate decision the
14 Hearing Panel finds that it is not reasonable to
15 expect that parole would be granted at a hearing
16 during the following two years. The specific
17 reasons for this finding are as follows;
18 multiple victims were attacked in separate
19 incidences. The offense was carried out in a
20 calculated manner. The motive of the crime was
21 trivial in relation to the offense. Prisoner
22 has extensive history of criminality and
23 (indiscernible) as noted before. Arrests at the
24 age of 16 and then 17, additional arrests from
25 the years of 1964 through 1980. The prisoner
26 recently committed serious disciplinary

1 violations in 2003 getting two 115's. The
2 Prisoner has not completed necessary
3 programming, which is essential to adjustment
4 and needs additional time to gain such
5 programming, particularly in the area of
6 Alcoholics Anonymous and Narcotics Anonymous.
7 And also the gaining of more of a stable
8 vocation to take once he receives parole. The
9 Panel recommends if he can become and remains
10 disciplinary free, and if available upgrade
11 vocationally and educationally and if available
12 participate in self-help. That is our Decision.
13 You need to get out of jail.

14 **INMATE DUMLAO:** I need to what?

15 **PRESIDING COMMISSIONER INGLEE:** You need
16 to get out of prison. You've been in too long.
17 I'm not telling you anything new. You really
18 need to work on this. You have spent too many
19 years in for the crime that was committed.

20 **INMATE DUMLAO:** I'm not a violent person,
21 I've never committed no violent crimes. This is
22 the only one; there is not physical violence.

23 **PRESIDING COMMISSIONER INGLEE:** Okay.

24 **DEPUTY COMMISSIONER ARMENTA:** You are
25 very violent. Your last 115 or second to the
26 last 115 were you got in a fight that inmate,

27 **JOHN DUMLAO C-16555 DECISION PAGE 5 7/06/05**

1 they maced you, and they kept on macing you to
2 get you off him and you kept on hitting him. To
3 me, that's pretty violent.

4 INMATE DUMLAO: I was fighting with two
5 inmates. I was fighting with two inmates at the
6 same time.

7 DEPUTY COMMISSIONER ARMENTA: Well, I
8 didn't read that in the report.

9 INMATE DUMLAO: It's in the video.
10 That's why they dropped it to mutual combat
11 because of that.

12 DEPUTY COMMISSIONER ARMENTA: Well,
13 you're not very peaceful. The thing is that
14 they told you to stop, the CO's said you
15 wouldn't stop, you kept on hitting him.

16 INMATE DUMLAO: It's a riot, I'm fighting
17 for my life.

18 PRESIDING COMMISSIONER INGLEE: This is
19 the completion of our Hearing, thank you very
20 much and good luck to you.

21 --oOo--

22
23 PAROLE DENIED TWO YEARS

24 THIS DECISION WILL BE FINAL ON: NOV -3 2005

25 YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT
26 DATE, THE DECISION IS MODIFIED.

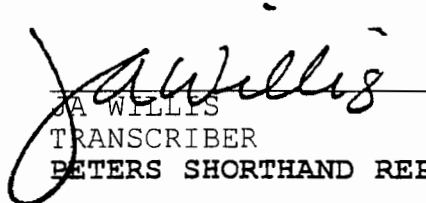
27 JOHN DUMLAO C-16555 DECISION PAGE 6 7/06/05

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, JA WILLIS, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 53, and which recording was duly recorded at CENTINELA STATE PRISON, IMPERIAL, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING OF JOHN DUMLAO, CDC NO. C-16555, ON JULY 06, 2005, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated JULY 22, 2005, at Sacramento, California.


JA WILLIS
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